



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/171000

PRELIMINARY RECITALS

Pursuant to a petition filed December 22, 2015, under Wis. Admin. Code, §HA 3.03, to review a decision by the Rock County Dept. of Social Services to recover FoodShare benefits (FS), a hearing was held on January 27, 2016, by telephone.

The issue for determination is whether the agency correctly determined an FS overpayment resulting from a failure to report income.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Rock County Dept. of Social Services
P.O. Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County. She resides with her husband.
2. The couple applied for FS in August, 2014. They reported then that the only income was his social security of \$732 per month. By a notice dated August 26, 2014, the county informed them that they were eligible for \$347 monthly FS. The notice included a section informing them that if household income rose above \$1,310.83 in a month they needed to report the increase.

3. Petitioner began to work for a home health agency in late September, 2014. She earned \$3,900 in October, 2014, and her income consistently was above \$2,000 per month thereafter.
4. There is no record that the couple reported her job to the agency. In February, 2015, the couple filed a six month report form with the agency. No job was reported, and the line "Check here if no one is employed" was checked.
5. In May, 2015, the county discovered the income via a state wage match. It obtained verification of petitioner's income.
6. By two notices dated December 3, 2015, the county informed petitioner that the couple was overpaid a total of \$2,447 in FS from December 1, 2014 through June 30, 2015, claim nos. [REDACTED] and [REDACTED]. The overpayments were determined by comparing the FS that would have been issued if actual monthly income had been budgeted to the amounts that were issued.

DISCUSSION

The Department is required to recover all FS overpayments. An overpayment occurs when an FS household receives more FS than it is entitled to receive. 7 C.F.R. §273.18(c). The federal FS regulations provide that the agency shall establish a claim against an FS household that was overpaid, even if the overpayment was caused by agency error. 7 C.F.R. §273.18(b)(3). All adult members of an FS household are liable for an overpayment. 7 C.F.R. §273.18(a)(4); FS Handbook, Appendix 7.3.1.2.

To determine an overpayment, the agency must determine the correct amount of FS that the household should have received and subtract the amount that the household actually received. 7 C.F.R. §273.18(c)(1)(ii).

I can find no record that petitioner or her husband ever reported the employment. Petitioner's husband testified that he brought petitioner's pay stubs to the county in November, 2014, and a receptionist copied them. There is no record of that happening, and I looked into the computer record and found no scanned pay stubs. Furthermore, the testimony is contradicted by the statement on the six-month report, filed in February, 2015, that no one in the household is employed.

I reviewed the overpayment calculations and found no errors. I conclude, therefore, that the agency correctly determined the overpayment in this case.

CONCLUSIONS OF LAW

The county correctly determined that petitioner was overpaid FS because she failed to report income.

THEREFORE, it is

ORDERED

That the petition for review is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 1st day of February, 2016

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on February 1, 2016.

Rock County Department of Social Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability